



**UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
JOHN JOSEPH MOAKLEY COURTHOUSE
1 COURTHOUSE WAY, SUITE 2300
BOSTON, MASSACHUSETTS 02210**



**FORMS AND INSTRUCTIONS FOR CONSENT OR REFUSAL
OF MAGISTRATE JUDGE JURISDICTION**

- Procedures and Other Information
- Examples of Consent and Refusal
- Blank Forms for Consent or Refusal
- General Order 09-3
- General Order 10-01

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**PROCEDURES AND OTHER INFORMATION
FOR COMPLETING THE FORM FOR
CONSENT OR REFUSAL OF MAGISTRATE JUDGE JURISDICTION
(updated 07/16/2010)**

I. AUTHORITY

The Court has entered a General Order (10-1), dated February 2, 2010, amending the General Order (09-3) of March 3, 2009, authorizing the assignment of civil cases to the Magistrate Judges sitting in Boston. Those Orders may be found on the Court's web page at www.mad.uscourts.gov.

II. PROCESS

For counsel and non-prisoner *pro se* litigants:

As the party initiating the civil action, you are responsible for serving the Court's General Orders of March 3, 2009 and February 2, 2010 and the consent/refusal form on all opposing parties. You are also responsible for contacting these attorneys or parties to inquire as to their consent or refusal to proceed before the Magistrate Judge.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing to consent, submission of the executed form, memorializing consent or refusal to consent to final assignment to the Magistrate Judge, is mandatory.

The document does not need to have a handwritten signature from each attorney or party.

If the consent is unanimous you may enter an electronic signature on the consent form for each attorney or party in this style: '/s/ John Smith' (see the Court's CM/ECF Administrative Procedures for further information on electronic signatures). You may use multiple sheets if additional space is needed. The consent form is also available on the Court's web page. An example of a completed form is attached to these procedures.

Should any party not consent, you should electronically file the form, after completing just the bottom part of the form.

NOTE: The Court is not to be made aware of which party or parties did not consent to the Magistrate Judge's jurisdiction.

Only one consent/refusal form should be filed for the case by counsel and non-prisoner *pro se* litigants.

The consent or refusal is to be filed electronically in the Court's CM/ECF system, using one of these selections, found under the 'Other Documents' menu: '**Consent to Jurisdiction by US Magistrate Judge,**' or '**Refusal of Consent to Proceed Before a US Magistrate Judge.**'

Non-prisoner *pro se* litigants who do not have access to the Court's electronic filing system are to file the completed consent or refusal with the Clerk's Office on paper.

For incarcerated *pro se* litigants and counsel in those cases:

The packet of materials regarding Consent or Refusal to Magistrate Judge jurisdiction will be issued by the Clerk's Office with the appropriate summons or service order. It will be the responsibility of the *pro se* litigant to serve this notice along with the Summons and Complaint or Notice of Removal.

The Clerk's Office will include this notice and accompanying documents with any Service Order entered in 28 U.S.C. § 2241 or 28 U.S.C. § 2254 actions filed by *pro se* petitioners.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing to consent, submission of the executed form, memorializing consent or refusal to consent to final assignment to the Magistrate Judge, is mandatory.

Prisoner *pro se* litigants and counsel for opposing parties do not need to confer, but shall file separate documents, on paper and clearly marked "DO NOT SCAN" directly with the Clerk's Office indicating their consent or refusal to the Magistrate Judge's jurisdiction. The Clerk's Office will gather the information, and make the appropriate docket entry, based on the documents filed. The original documents relating to consent or refusal filed by any party in a litigation involving an incarcerated *pro se* litigant will not be attached to the electronic (CM/ECF) docket, but stored in the paper case file.

III. CONSENT AND FURTHER PROCEEDINGS

Should all parties consent to the Magistrate Judge's jurisdiction, the case will continue before the Magistrate Judge as any other civil case, including bench or jury trial, and the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed. See 28 U.S.C. § 636(c).

IV. REFUSAL OF CONSENT AND FURTHER PROCEEDINGS

Should any party not consent to the Magistrate Judge's jurisdiction, or should the parties fail to submit the document at all, the courtroom deputy clerk will transmit the case file to the Clerk to have the case randomly assigned to a District Judge of this Court. If the District Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to the previously assigned Magistrate Judge.

V. ADDITIONAL PARTIES

Counsel or *pro se* parties filing a pleading that adds additional parties to the civil action are responsible for serving the General Order and the consent form with that pleading, and then filing the consent form, except for *pro se* prisoner litigants, who shall file the instructions above.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSABC TRUCKING COMPANY

Plaintiff

v.

Civil Action No. 08-10356MARY ALICE JONES

Defendant

NOTICE

EXAMPLE

This case has been assigned to Magistrate Judge _____ for all purposes. Please read the attached General Order for further information regarding this assignment. Plaintiff, or defendant if the case is initiated by a Notice of Removal, is responsible for submitting this form to the Court advising that all parties consent to the Magistrate Judge's jurisdiction, or indicating that the consent is not unanimous. One document is to be filed.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing consent, submission of this executed form, memorializing consent or refusal to the final assignment to the Magistrate Judge is mandatory. This document is to be electronically filed with the Court within thirty days after the date of service on the last party.

CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed Only If All Parties Consent)

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the undersigned *pro se* party or counsel of record consent to have the above named Magistrate Judge conduct all further proceedings in this case, including bench or jury trial, and order the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed.

Party Represented	Signature	Date
ABC Trucking Company	/s/ Phyllis Q. Harrison	1/15/08
Mary Alice Jones	/s/ George S. Britt	1/16/08

(If additional space is needed, additional forms may be attached)

--- OR ---

REFUSAL TO CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed If Any Party Declines to Consent - Please DO NOT Identify the Party)

CONSENT

In accordance with General Order 07-4 , dated December 4, 2007, and as modified by General Order 09-3 (dated March 3, 2009) and General Order 10-1 (dated February 2, 2010) the parties advise the Court that at least one party does not consent to the Magistrate Judge's jurisdiction.

The case will be randomly assigned to a U.S. District Judge for further proceedings. If you elect to have the case proceed before a U.S. District Judge, the above named Magistrate Judge shall continue to be assigned to this case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

Dated: _____

 Plaintiff or Removing Party
 (through counsel, if appropriate)

BBO #
 Address: _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSABC TRUCKING COMPANY

Plaintiff

v.

Civil Action No. 08-10356MARY ALICE JONES

Defendant

NOTICE

EXAMPLE

This case has been assigned to Magistrate Judge _____ for all purposes. Please read the attached General Order for further information regarding this assignment. Plaintiff or defendant in the case is initiated by a Notice of Removal, is responsible for submitting this form to the Court advising that all parties consent to the Magistrate Judge's jurisdiction, or indicating that the consent is not unanimous. One document is to be filed.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing consent, submission of this executed form, memorializing consent or refusal to the final assignment to the Magistrate Judge is mandatory. This document is to be electronically filed with the Court within thirty days after the date of service on the last party.

CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed Only If All Parties Consent)

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the undersigned *pro se* party or counsel of record consent to have the above named Magistrate Judge conduct all further proceedings in this case, including bench or jury trial, and order the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed.

Party Represented	Signature	Date

(If additional space is needed, additional forms may be attached)

REFUSAL

REFUSAL TO CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed If Any Party Declines to Consent - Please DO NOT Identify the Party)

In accordance with General Order 07-4 , dated December 4, 2007, and as modified by General Order 09-3 (dated March 3, 2009) and General Order 10-1 (dated February 2, 2010) the parties advise the Court that at least one party does not consent to the Magistrate Judge's jurisdiction.

The case will be randomly assigned to a U.S. District Judge for further proceedings. If you elect to have the case proceed before a U.S. District Judge, the above named Magistrate Judge shall continue to be assigned to this case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

Dated: 1/15/08

/s/ Phyllis Q. Harrison
 Plaintiff or Removing Party
 (through counsel, if appropriate)

BBO #
 Address:

123456
9004 Main Street
Cambridge, MA 02138

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS_____
Plaintiff

v.

Civil Action No. _____

Defendant**NOTICE TO PARTIES IN *PRO SE* PRISONER LITIGATION CASES
DO NOT SCAN**

This case has been assigned to Magistrate Judge _____ for all purposes. Please read the attached General Order for further information regarding this assignment. Each party is responsible for submitting this form to the Court advising that all parties consent to (or refuse) the Magistrate Judge's jurisdiction. Each party is to file their consent or refusal on paper, with the Clerk's Office clearly marked as **DO NOT SCAN**.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing consent, submission of this executed form, memorializing consent or refusal to the final assignment to the Magistrate Judge is mandatory. This document is to be filed on paper with the Clerk's Office within thirty days after the date of service on the last party.

CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the undersigned *pro se* party or counsel of record consents to have the above named Magistrate Judge conduct all further proceedings in this case, including bench or jury trial, and order the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed.

Party Represented	Signature	Date

(If additional space is needed, additional forms may be attached)

- - OR - -

**REFUSAL TO CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed If the Party Declines to Consent)**

In accordance with General Order 07-4 , dated December 4, 2007, and as modified by General Order 09-3 (dated March 3, 2009) and General Order 10-1 (dated February 2, 2010) the parties advise the Court that at least one party does not consent to the Magistrate Judge's jurisdiction.

The case will be randomly assigned to a U.S. District Judge for further proceedings. If you elect to have the case proceed before a U.S. District Judge, the above named Magistrate Judge shall continue to be assigned to this case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

Dated: _____

Signature_____
Printed Name

BBO # _____

Address: _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS_____
Plaintiff

v.

Civil Action No. _____

Defendant**NOTICE**

This case has been assigned to Magistrate Judge _____ for all purposes. Please read the attached General Order for further information regarding this assignment. Plaintiff, or defendant if the case is initiated by a Notice of Removal, is responsible for submitting this form to the Court advising that all parties consent to the Magistrate Judge's jurisdiction, or indicating that the consent is not unanimous. One document is to be filed.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing consent, submission of this executed form, memorializing consent or refusal to the final assignment to the Magistrate Judge is mandatory. This document is to be electronically filed with the Court within thirty days after the date of service on the last party.

**CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed Only If All Parties Consent)**

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the undersigned *pro se* party or counsel of record consent to have the above named Magistrate Judge conduct all further proceedings in this case, including bench or jury trial, and order the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed.

Party Represented	Signature	Date

(If additional space is needed, additional forms may be attached)

-- OR --

**REFUSAL TO CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed If Any Party Declines to Consent - Please **DO NOT** Identify the Party)**

In accordance with General Order 07-4 , dated December 4, 2007, and as modified by General Order 09-3 (dated March 3, 2009) and General Order 10-1 (dated February 2, 2010) the parties advise the Court that at least one party does not consent to the Magistrate Judge's jurisdiction.

The case will be randomly assigned to a U.S. District Judge for further proceedings. If you elect to have the case proceed before a U.S. District Judge, the above named Magistrate Judge shall continue to be assigned to this case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

Dated: _____

Plaintiff or Removing Party
(through counsel, if appropriate)

BBO #
Address:

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PUBLIC NOTICE

REGARDING GENERAL ORDER 09-3

Amending General Order 07-4
Pilot Program for Random Assignment of Civil Cases to Magistrate Judges

The United States District Court for the District of Massachusetts established a two year pilot program beginning on January 1, 2008, to have a limited number of civil cases initially randomly assigned to a magistrate judge, rather than a district judge. After considering the operation of the program during the first year, the Court has approved some minor procedural changes to modify the processing of cases filed by *pro se* litigants, especially those in custody. The attached General Order incorporates those changes.

March 27, 2009

Sarah Allison Thornton
Clerk of Court

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

GENERAL ORDER - 09-3

March 3, 2009

Amends General Order 07-4 adopted December 4, 2007
Pilot Program for Random Assignment of Civil Cases to Magistrate Judges

In order to increase the utilization of the Magistrate Judges and increase the availability of civil trials the Court, on December 4, 2007 by General Order 07-4, approved a pilot program to randomly assign, at the time of filing, a limited number of civil cases directly to the Magistrate Judges sitting in Boston. This new process is modeled after a successful program implemented in Springfield. After further review of the program, the Court has adopted this amended General Order. This pilot project will continue for two years from January 1, 2008, absent further Order of the Court.

It is hereby ORDERED that, effective January 1, 2008 and as amended effective March 3, 2009, the automated case assignment system for civil cases will be modified so that one out of twelve civil cases will be randomly assigned to one of the Magistrate Judges sitting in Boston. Exceptions to this program will be bankruptcy appeals, cases seeking an immediate Temporary Restraining Order and cases filed pursuant to 28 U.S.C. § 2255.

The Clerk shall provide this Order and a form for designating the parties' consent or refusal to the Magistrate Judge's jurisdiction to counsel, or to a party appearing *pro se*, upon the filing of a new civil action. Except in the case of incarcerated pro se plaintiffs, it will be the responsibility of that attorney or pro se litigant to serve this notice along with the Summons and Complaint or Notice of Removal. That person will also be responsible for obtaining the other parties' decisions concerning proceeding before the Magistrate Judge and for filing the document as soon as practicable, but in all cases within thirty days after the date of service on the last party. The document shall indicate either unanimous consent to final referral of the case to the Magistrate Judge for all purposes including jury or non-jury trial, or that consent to the referral to the Magistrate Judge has been declined. In the case of incarcerated pro se plaintiffs, the Order and form shall be included with the other documents sent to the parties by the Clerk's Office, and shall provide that each party shall individually return their form evidencing consent or declination directly to the Clerk's Office. In all cases, in the absence of unanimous consent to the referral to the Magistrate Judge, the case will be randomly re-drawn to a District Judge. The previously assigned Magistrate Judge shall continue to be assigned to the case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing to consent, submission of the executed form, memorializing consent or refusal to consent to final assignment to the Magistrate Judge, is mandatory.

Until the Court receives for filing either a consent to the Magistrate Judge's jurisdiction or the reassignment of the case to a District Judge, the initial assignment of a civil case to the Magistrate Judge is a referral to the Magistrate Judge under 28 U.S.C. § 636(b) for all pretrial non-dispositive matters other than the Rule 16(b) scheduling conference.

Mark L. Wolf

Mark L. Wolf
Chief Judge

Rya W. Zobel

Rya W. Zobel
United States District Judge

Douglas P. Woodlock

Douglas P. Woodlock
United States District Judge

Richard G. Stearns

Richard G. Stearns
United States District Judge

Patti B. Saris

Patti B. Saris
United States District Judge

Michael A. Ponsor

Michael A. Ponsor
United States District Judge

F. Dennis Saylor IV

F. Dennis Saylor IV
United States District Judge

Morris E. Lasker

Morris E. Lasker
Senior United States District Judge

Joseph L. Tauro

Joseph L. Tauro
United States District Judge

William G. Young

William G. Young
United States District Judge

Nathaniel M. Gorton

Nathaniel M. Gorton
United States District Judge

Reginald C. Lindsay

Reginald C. Lindsay
United States District Judge

Nancy Gertner

Nancy Gertner
United States District Judge

George A. O'Toole

George A. O'Toole
United States District Judge

Edward F. Harrington

Edward F. Harrington
Senior United States District Judge

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

GENERAL ORDER - 10-01

February 2, 2010

Amends General Order 09-3 adopted March 3, 2009
Pilot Program for Random Assignment of Civil Cases to Magistrate Judges

In order to increase the utilization of the Magistrate Judges and increase the availability of civil trials the Court, on December 4, 2007 by General Order 07-4, approved a pilot program to randomly assign, at the time of filing, a limited number of civil cases directly to the Magistrate Judges sitting in Boston. This new process was modeled after a successful program implemented in Springfield. After further review of the program, the Court adopted amended General Order 09-3 and continued the program for two years from January 1, 2008, absent further Order of the Court.

Upon further consideration by the Court, it is determined that the pilot program has been successful and should become permanent. Accordingly, it is hereby ORDERED that, effective January 1, 2010, *nunc pro tunc*, the automated case assignment system for civil cases is authorized as a permanent program and will continue until further Order of the Court.

Mark L. Wolf

Mark L. Wolf
Chief Judge

Rya W. Zobel

Rya W. Zobel
United States District Judge

Douglas P. Woodlock

Douglas P. Woodlock
United States District Judge

Richard G. Stearns

Richard G. Stearns
United States District Judge

Nancy Gertner

Nancy Gertner
United States District Judge

George A. O'Toole

George A. O'Toole
United States District Judge

Edward F. Harrington

Edward F. Harrington
Senior United States District Judge

Joseph L. Tauro

Joseph L. Tauro
United States District Judge

William G. Young

William G. Young
United States District Judge

Nathaniel M. Gorton

Nathaniel M. Gorton
United States District Judge

Patti B. Saris

Patti B. Saris
United States District Judge

Michael A Ponsor

Michael A Ponsor
United States District Judge

F. Dennis Saylor IV

F. Dennis Saylor IV
United States District Judge